

SENATE BILL 335

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By: **Senators Simonaire, Haines, Jacobs, Mooney, and Stone**

Introduced and read first time: January 28, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – “Student Protection Act of 2010”**

3 FOR the purpose of establishing penalties for the crime of sexual offense in the fourth
4 degree between a person in a position of authority and a minor student;
5 establishing increased penalties for a certain violation if the offender was
6 previously convicted of a certain sexual offense; requiring the State to comply
7 with certain procedural rules relating to the indictment and trial of a
8 subsequent offender under certain circumstances; making conforming changes;
9 and generally relating to the crime of sexual offense in the fourth degree
10 between a person in a position of authority and a minor student.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 3–308
14 Annotated Code of Maryland
15 (2002 Volume and 2009 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Criminal Law**

19 3–308.

20 (a) In this section, “person in a position of authority”:

21 (1) means a person who:

22 (i) is at least 21 years old;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) is employed as a full-time permanent employee by a public
2 or private preschool, elementary school, or secondary school; and

3 (iii) because of the person's position or occupation, exercises
4 supervision over a minor who attends the school; and

5 (2) includes a principal, vice principal, teacher, or school counselor at
6 a public or private preschool, elementary school, or secondary school.

7 (b) A person may not engage in:

8 (1) sexual contact with another without the consent of the other;

9 (2) except as provided in § 3-307(a)(4) of this subtitle, a sexual act
10 with another if the victim is 14 or 15 years old, and the person performing the sexual
11 act is at least 4 years older than the victim; or

12 (3) except as provided in § 3-307(a)(5) of this subtitle, vaginal
13 intercourse with another if the victim is 14 or 15 years old, and the person performing
14 the act is at least 4 years older than the victim.

15 (c) (1) Except as provided in § 3-307(a)(4) of this subtitle or subsection
16 (b)(2) of this section, a person in a position of authority may not engage in a sexual act
17 or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a
18 student enrolled at a school where the person in a position of authority is employed.

19 (2) Except as provided in § 3-307(a)(5) of this subtitle or subsection
20 (b)(3) of this section, a person in a position of authority may not engage in vaginal
21 intercourse with a minor who, at the time of the vaginal intercourse, is a student
22 enrolled at a school where the person in a position of authority is employed.

23 (d) (1) Except as provided in paragraph (2) of this subsection, a person
24 who violates **SUBSECTION (B) OF** this section is guilty of the misdemeanor of sexual
25 offense in the fourth degree and on conviction is subject to imprisonment not exceeding
26 1 year or a fine not exceeding \$1,000 or both.

27 (2) (i) On conviction of a violation of **SUBSECTION (B) OF** this
28 section, a person who has been convicted on a prior occasion not arising from the same
29 incident of a violation of §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602
30 of this title is subject to imprisonment not exceeding 3 years or a fine not exceeding
31 \$1,000 or both.

32 (ii) If the State intends to proceed against a person under
33 subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the
34 Maryland Rules for the indictment and trial of a subsequent offender.

1 **(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION, A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS**
3 **GUILTY OF THE MISDEMEANOR OF SEXUAL OFFENSE IN THE FOURTH DEGREE**
4 **BETWEEN A PERSON IN A POSITION OF AUTHORITY AND A MINOR STUDENT AND**
5 **ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A**
6 **FINE NOT EXCEEDING \$1,000 OR BOTH.**

7 **(2) (I) ON CONVICTION OF A VIOLATION OF SUBSECTION (C)**
8 **OF THIS SECTION, A PERSON WHO HAS BEEN CONVICTED ON A PRIOR OCCASION**
9 **NOT ARISING FROM THE SAME INCIDENT OF A VIOLATION OF §§ 3-303 THROUGH**
10 **3-312 OR § 3-315 OF THIS SUBTITLE OR § 3-602 OF THIS TITLE IS SUBJECT TO**
11 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$1,000 OR**
12 **BOTH.**

13 **(II) IF THE STATE INTENDS TO PROCEED AGAINST A**
14 **PERSON UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, IT SHALL COMPLY**
15 **WITH THE PROCEDURES SET FORTH IN THE MARYLAND RULES FOR THE**
16 **INDICTMENT AND TRIAL OF A SUBSEQUENT OFFENDER.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2010.